

APPENDIX A1

Model Write-Off Policy





MODEL WRITE-OFF POLICY

MICHIGAN TRIAL COURT COLLECTIONS

Purpose

The purpose of this policy is to establish procedures for writing off court receivables in order to:

- a) accurately portray the value of amounts owed to the court; and
- b) preserve the ability of the court to maximize collections.

Definitions

Active debt - An active debt is a debt which is past its due date and which the court is attempting to collect through appropriate methods.

Debt - A debt is an amount owed to the court by an individual or entity as a result of the adjudication of a case. Debts include the following, if unpaid: fines, fees, costs, assessments, and reimbursements (except reimbursement to local governmental units for drunk driving cases). For purposes of this policy, "debt" does not include restitution.

Uncollectible - A debt is uncollectible if all opportunities to collect it have been exhausted (including all statutorily-mandated procedures, such as noticing, license suspension, etc. where appropriate), there has been no payment activity or contact with the debtor for the immediately preceding 12 consecutive months, and there is no reason to believe the court will be able to collect any of the debt in the future.

Write-off - Uncollectible debts meeting the criteria found in this policy are written off, which indefinitely suspends collection efforts and removes the debts from the court's list of receivables. Only uncollectible debts may be written off.

Responsibilities

The chief judge shall designate the court administrator to be responsible for administering this policy and making all decisions to write off debts. Court staff with responsibility for collections will assist the court administrator in identifying debts which warrant write-off.

Process

1. At or near the end of every fiscal year, the court administrator will review all debts to determine which are eligible for write-off.
 - A. Except as provided in 1.B. below, uncollectible debts are eligible for write-off if they have aged according to the following schedule:

Traffic civil infractions	2 years after assessment
Non-traffic civil infractions	2 years after assessment



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Criminal cases	3 years after assessment, probation discharge, or release from incarceration, whichever occurs last
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Juvenile cases:

Traffic	2 years after jurisdiction ends
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Delinquency	3 years after jurisdiction ends
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Child protective proceedings	3 years after jurisdiction ends
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The court shall not rescind any bench warrants issued for nonpayment of debts that are written off under this subsection.

B. Debts shall be eligible for write-off regardless of payment history, contact with debtor, and age of debt in the following instances:

- i. the debtor is deceased;
- ii. the debt is discharged in bankruptcy;
- iii. the estimated costs of collecting the debt exceed 1.5 times the amount of the debt;

The court shall rescind any bench warrants issued for nonpayment of debts that are written off under this subsection.

2. Court staff shall provide the following information to the court administrator to support the recommendation for write-off: debtor name, case number, date of judgment, amount assessed, amount unpaid, efforts undertaken to collect the debt, and reason for write-off.
3. The court administrator shall review the debts recommended for write-off and determine which ones to approve. The court administrator may write-off some debts owed by a debtor and not others. The case files and automated information system shall be updated to indicate the date the debt(s) were written off.
4. The court must be able to accept payment for all debts which are written off. If a partial payment is accepted on a debt which has been written off, the debt shall be returned to active status, and appropriate collection efforts resumed.
5. Debts owed by prisoners who have been sentenced to more than 5 years in prison and who have not made payments during the first 12 months of their term of imprisonment shall be written off. As part of the annual write-off process, the court administrator shall review debts written off under this section to determine whether they should be returned to active status.
6. If circumstances change to allow collection efforts to resume, a written-off debt shall be reinstated to active status.



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Write-off vs. judicial waiver

This policy establishes criteria and procedures for writing off debts which are uncollectible. Write-off is an *administrative* procedure to remove a debt from the list of amounts the court can expect to collect. **Write-off of uncollectible debts from the court's accounts receivable ledger does not constitute forgiveness of the debt; written-off debts are still payable by the debtor.**

In some instances, a case may warrant the partial or complete waiver of a debt, which is a *judicial* action to forgive a debt. Examples of debts which may be candidates for waiver include: the debtor claims indigence, the debtor disputes the validity of the assessment, or the debtor has requested a waiver. Debts which may warrant waiver must not be written off; instead, the court administrator should refer them to the chief judge for consideration.